



GARD AS

P.O. Box 789 Stoa
NO-4809 ARENDAL
NORWAY

Tel +47 37 01 91 00
Fax +47 37 02 48 10

companymail@gard.no
www.gard.no

21 February 2015

Dear Sirs

Letter of Undertaking

Claimant: ING Bank NV
c/o Hafnia Law Firm
Nyhavn 69
1051 København K
CVR no. 32592643
Denmark

Re: Claim for amounts invoiced and/or otherwise payable (whether in contract, bailment, tort, restitution or otherwise) in respect of bunkers (about 401.170 mt IFO 380 cst and 401.301 mt LSFO 380 cst) supplied to the m/t ASTRO SATURN at Galveston Offshore Lightering Area a/k/a GOLLA on 5 October 2014 pursuant to a Sales Order Confirmation no. 145-19569 issued by O.W. Bunker Malta Ltd ("OWM") and incorporated OW Bunker Group Terms and Conditions of sale for Marine Bunkers, Edition 2013 and/or Invoice no. 145-S19573 issued by OWM, together with claims for interest, administration fees and legal costs (collectively the "Claim")

EXHIBIT A



In consideration of your releasing from arrest and attachment the m/t ASTRO SATURN (IMO no. 9235725) and refraining from taking any further action resulting in the arrest of the vessel or any other ship or property in the same ownership, associated ownership, management, possession or control for the purpose of founding jurisdiction and/or obtaining security in respect of the Claim, we, Gard P&I (Bermuda) Ltd, hereby agree, the m/t ASTRO SATURN, lost or not lost, that vessel being in port or not in port:

- (1) To cause a Verified Statement of Right or Interest to the vessel to be filed by the owner of the m/t ASTRO SATURN and to cause an appearance to be made on behalf of the vessel *in rem* and Saturn Special Maritime Enterprises (ENE) *in personam* or owners of the vessel, if not Saturn Maritime Enterprises (ENE) (hereafter "Owners"), in the lawsuit regarding the above-referenced Claim which you have filed in the United States District Court for the Southern District of Texas, Houston Division, Civil Action No. 4:15-cv-479 styled "ING Bank N.V. v. M/V ASTRO SATURN, etc., *in rem* and Saturn Special Maritime Enterprises (ENE), *in personam*". The undersigned Association agrees to cause an appearance to be made on behalf of the vessel *in rem* and Owners in the United States District Court for the Southern District of Texas, Houston Division, and in any other United States District Court to which this matter may later be transferred.
- (2) In the event a final judgment (after appeal, if any) be entered in your favor against the m/t ASTRO SATURN, *in rem*, or Owners *in personam* by any court or arbitration tribunal of competent jurisdiction then the undersigned Association agrees to pay the lesser of (1) the said final judgment or decree, plus interest and costs, or (2) the sum of USD \$770,000.00 (Seven Hundred and Seventy Thousand United States Dollars), inclusive of interest and costs.
- (3) In the event of a settlement, where the m/t ASTRO SATURN has settled as an *in rem* defendant or Owners have settled as an *in personam* defendant, then the undersigned Association agrees to pay the agreed portion of the settlement on behalf of the m/t ASTRO SATURN and / or Owners, where said settlement has been made with the approval of the undersigned Association, regardless of



whether a final judgment has been rendered, and provided always that total liability hereunder shall not exceed the sum of USD \$770,000.00 (Seven Hundred and Seventy Thousand United States Dollars), inclusive of interest and costs.

- (4) It is expressly agreed that the amount of this Letter of Undertaking be subject to reduction by agreement of the parties and if the parties cannot agree to the reduced amount of this letter, that those at interest with the m/t ASTRO SATURN may approach the Court in which the matter is then pending to set the amount of security. However, this Letter of Undertaking shall remain in full force and effect until said Court shall order that the face value of the security be reduced, if ever.
- (5) Upon demand, to cause to be filed in any court in which this action is then pending a bond in form and sufficiency of surety satisfactory to you or to the Court to secure payment of the amount agreed in subdivision (2), provided always that, under the bond, total liability thereunder shall not exceed USD \$770,000.00 (Seven Hundred and Seventy Thousand United States Dollars), inclusive of costs, which bond will bear interest on the principal amount of USD \$770,000.00, not to exceed six (6) per cent per annum.
- (6) It is understood that in the event the bond referred to under subsection (5) is filed, the undersigned Association shall have no further obligation under subdivisions (2) and (3).

It is the intent of this Letter of Undertaking that the rights of the parties shall be precisely the same as they would have been had the m/t ASTRO SATURN been arrested and / or attached under process issued out of the United States District Court, then taken into custody by the United States Marshal under said *in rem* process, and been released upon the filing of a release bond in the foregoing amount and a Verified Statement of Right or Interest.

This Letter of Undertaking is written entirely without prejudice to any rights or defenses which the m/t ASTRO SATURN or her Owners may have, including, but not



limited to, the right to restrict any appearance pursuant to Rule E(8) of the Supplemental Rules for Certain Admiralty and Maritime Claims, the right to seek a dismissal of any action filed in the United States District Court for the Southern District of Texas, Houston Division or other District on the basis of an enforceable forum selection clause, *forum non conveniens*, improper venue, or on the basis of an enforceable arbitration clause. This letter is limited to the *in rem* claim which has been asserted by you against the m/t ASTRO SATURN and the *in personam* claim which has been asserted by you against Owners, as set forth above, and is to run only in favor of ING Bank N.V. It is understood and agreed that this letter shall remain in full force and effect should this matter be transferred to a United States District Court other than the United States District Court for the Southern District of Texas, Houston Division as well as during the pendency of any arbitration proceeding. It is also understood and agreed that the authority of the signatory below to act on behalf of the vessel or her owner is limited to the agreements which have been set forth herein.

Yours faithfully,

GARD AS

As agent only for Gard P&I (Bermuda) Ltd

Christopher Mackrill

Vice President, Defence claims